PART IV

SECTION—1-B

CENTRAL ACTS AND ORDINANCES

LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 91 LCA 75.

Bangalore, dated 7th November 1975.

Ordered that the Bonded Labour System (Abolition) Ordinance, 1975 No. 17 of 1975 published in Part II Section I of the Gazette of India Extraordinary dated 24th October 1975 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

B. NAGESHA RAO,

Under Secretary to Government,
Dept. of Law and Parliamentary Affairs.

GOVERNMENT OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 24th October, 1975/Kartika 2, 1879 (Saka)

THE BONDED LABOUR SYSTEM (ABOLITION) ORDINANCE, 1975.

No. 17 OF 1975

Promulgated by the President in the Twenty-sixth Year of the Republic of India.

An Ordinance to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people, and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the

President is pleased to promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement*.—(*1*) This Ordinance may be called the Bonded Labour System (Abolition) Ordinance, 1975.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2 *Definitions*.— In this Ordinance, unless the context otherwise requires,—

(*a*) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor);

(*b*) "agreement" means an agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

Explanation.—The existence of an agreement between the debtor and creditor is ordinarily presumed, under the social custom, in relation to the following forms of forced labour, namely :—

Adiyamar, Baramasia, Basahva, Bethu, Bhagela, Cheumar, Garru-Galu, Hali, Hari, Harwai, Ho'ya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi' Mat, Munish system, Nit-Majbor, Palaru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti;

(*c*) 'ascendant" or "descendant", in relation to a person belonging to a matriarchal society, means the

person who corresponds to such expression in accordance with the law of succession in force in such society ;

(*d*) "bonded debt" means an advance obtained, or presumed to have been obtained, by a bonded labourer under, or in pursuance of, the bonded labour system ;

(*e*) "bonded labour" means any labour or service rendered under the bonded labour system ;

(*f*) "bonded labourer" means a labourer who incurs, or has, or is presumed to have, incurred, a bonded debt ;

(*g*) "bonded labour system" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into agreement with the creditor to the effect that,—

(*i*) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance evidenced by any document) and in consideration of the interest, if any, due on such advance, or

(*ii*) in pursuance of any customary or social obligation, or

(*iii*) in pursuance of an obligation devolving on him by succession, or

(*iv*) for any economic consideration received by him or by any of his lineal ascendants or descendants, or

(v) by reason of his birth in any particular caste or community,

he would—

(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or

(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or

(3) forfeit the right to move freely throughout the territory of India, or

(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced, or partly forced labour under which a surety for a debtor enters, or has, or is presumed to have enter d, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the dept, he would render the bonded lobour on behalf of the debtor;

(h) ' family", in relation to a person, includes the ascendant and descendant of such person;

i) "nominal wages", in relation to any labour, means a wage which is less than the minimum wages fixed by the Government, in relation to the same or similar labour, under any law for the time being in force and where no such minimum wage has been fixed in relation to any form of labour, the wages that are normally paid, for the same or similar labour, to the labourers working in the same locality;

(j) "prescribed" means prescribed by rules made under this Ordinance.

3. *Ordinance to have over-riding effect.*—The provisions of this Ordinance shall have effect notwithstanding anything inconsistant therewith contained in any enactment other than this Ordinance, or in any instrument having effect by virtue of any enactment other than this Ordinance.

CHAPTER II

Abolition of Bonded Labour System

Abolition of bonded labour system.—(1) on the commencement of this Ordinance, the bonded labour

system shall stand abolished and every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour.

(2) After the commencement of this Ordinance, no person shall—

(a) make any advance under, or in pursuance of, the bonded labour system, or

(b) compel any person to render any bonded labour or other form of forced labour.

5. *Agreement, custom, etc., to be void.*—On the commencement of this Ordinance, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Ordinance), by virtue of which any person, or any member of the family or dependant of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

CHAPTER III

Extinguishment of Liability to repay Bonded debt

6. *Liability to repay bonded debt to stand extinguished.*—(1) On the commencement of this Ordinance, every obligation of a bonded labourer to repay any bonded debt, or such part of any bonded debt as remains unstisfied immediately before such commencement, shall be deemed to have been extinguished.

(2) After the commencement of this Ordinance, no suit or other proceedings shall lie in any civil court or before any other authority for the recovery of any bonded debt or any part thereof.

(3) Every decree or order for the recovery of bonded debt, passed before the commencement of this Ordinance and not fully satisfied before such commencement, shall be deemed, on such commencement, to have been fully satisfied.

(4) Every attachment made before the commencement of this Ordinance, for the recovery of any bonded debt, shall, on such commencement, stand vacated; and where, in pursuance of such attachment, any movable property of the bonded labourer was seized and removed from his custody and kept in the custody of any court or other authority pending sale thereof, such movable property shall be restored, as soon as may be practicable after such commencement, to the possession of the bonded labourer.

(5) Where, before the commencement of this Ordinance possession of any property belonging to a bonded labourer or a member of his family or other dependant was forcibly taken over by any creditor for the recovery of any bonded debt, such property shall be restored, as soon as may be practicable after such commencement, to the possession of the person from whom it was seized.

(6) If restoration of the possession of any property referred to in sub-section (4) or sub-section (5) is not made within thirty days from the commencement of this Ordeinance, the aggrieved person may, within such time as may be prescribed apply to the prescribed authority for the restoration of the possession of such property and the prescribed authority may, after giving the creditor a reasonable opportunity of being heard, direct the creditor to restore to the applicant the possession of the concerned property within such time as may be specified in the order.

(7) An order made by any prescribed authority, under sub-section (6), shall be deemed to be an order made by a civil court and may be executed by the court of the lowest pecuniary jurisdiction within the local limits of whose jurisdiction the creditor voluntarily resides or carries on business or personally works for gain.

(8) For the avoidance of doubts, it is hereby declared that, where any attached property was sold before the commencement of this Ordinance, in execution of a decree order for the recovery of a bonded debt, such sale shall not be affected by any provision of his Ordinance:

Provided that the bonded labourer, or an agent authorised by him in this behalf may, at any time within

five years from such commencement, apply to have the sale set aside on his depositing in court, for payment to the decree-holder, the amount specified in the proclamation of sale, for the recovery of which the sale was ordered, less any amount, as well as mesne profits which may, since the date of such proclamation of sale, have been received by the decree holder.

(9) Where any suit or proceeding, for the enforcement of obligation under the bonded labour system, including a suit or proceeding for the recovery of any advance made to a bonded labourer, is pending at the commencement of this Ordinance, such suit or other proceeding shall on such commencement, stand dismissed.

(10) On the commencement of this Ordinance, every bonded labourer who has been detained in civil prison, whether before or after judgement, shall be released from detention forthwith.

7. *Property of bonded labourer to be freed from mortgage etc.*—(1) All property vested in a bonded labourer which was immediately before the commencement of this Ordinance under any mortgage, charge lien or other incumbrance in connection with any bonded debt shall, in so far as it is relatable to the bonded dedt, stand freed and discharged from such mortgage, charge lien or other incumbrances, and where any such property was, immediately before the commencement of this Ordinance poesession of the mortgagee or the holder of the charge, lien or incumbrance, such property shall (execept where it was subject to any other charge), on such commencement, be restored to the possession of the bonded labourer.

(2) If any delay is made in restoring any property referred to in sub-section (1), to the possession of bonded labourer, such labourer shall be entitled, on and from the date of such commencement, to recover from the mortgagee or holder of the lien, charge or incumbrance, such mesne profits as may be determined by the civil court within the local limits of whose jurisdiction such property is situated.

8- Freed bonded labourer not be evicted from homestead, etc —*(1)* No person who has been freed and discharged under this Ordinance from any obligation to rendur any bonded labour, shall be evicted from any homestead or other residential premises which he was occupying immediately before the commencement of this Ordinance as part of the consideration for the bonded labour.

(2) If, after the commencement of this Ordinance any such person is evicted by the creditor from any homestead or other residential premises referred to in sub-section (1) the Executive Magistrate in charge of the Sub-Division within which such homestead or residential premises is situated shall, as early as practicable, restore the bonded labourer to the possession of such homestead or other residential premises.

9. Creditor not to accept payment against extinguished debt.—(1) No creditor shall accept any payment against any bonded debt which has been extinguished or deemed to have been extinguished or fully satisfied by virtue of the provisions of this Ordinance.

(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and also with fine.

(3) The court, convicting any person under sub-section (2) may, in addition to the penalties which may be imposed under that sub-section, direct the person to deposit, in court, the amount accepted in contravention of provisions of sub-section (1) within such period as may be specified in the order for being refunded to the bonded labourer.

CHAPTER IV

Implementing authorities

10. Authorites who may be specified for implementing the provisions of this Ordinance.—The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the

provisions of his Ordinance are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers and perform all or any of the duties so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified.

11. Duty of District Magistrate and other officers to ensure credit.—The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that the he may not have any occasion or reason to contract any further bonded debt.

12. Duty of District Magistrate and officers authorised by him.—It shall be the duty of every District Magistrate and every officer specified by him under section 10 to inquire whether, after the commencement of this ordinance, any bonded labour system or any other form of, foreced labour is being enforced by, or on behalf of, any person resident within the local limits of his jurisdiction and if, as a result of such inquiry, any person is found to be enforcing the bonded labour system or any other system of forced labour, he shall forthwith take such action as may be necessary to eradicate the enforcement of such forced labour.

CHAPTER V

VIGILANCE COMMITTEES

13. Vigilance committees.—(1) Every State Government shall by notification in the Official Gazette constitute such number of Vigilance Committees in each district and each Sub-Division as it may think fit.

(2) Each Vigilance Committee, constituted for a district, shall consist of the following members, namely:

(a) the District Magistrate, or a person nominated by him, who shall be the Chairman;

(*b*) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the district, to be nominated by the District Magistrate;

(*c*) two social workers, resident in the district, to be nominated by the District Magistrate;

(*d*) not more than three persons to represent the official or non-official agencies in the district connected with rural development, to be nominated by the State Government;

(*e*) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely :—

(*a*) the Sub-Divisional Magistrate, or a person nominated by him, who shall be the Chairman;

(*b*) three persons belonging to the Scheduled Castes or Scheduled Tribes and residing in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(*c*) two social workers, resident in the Sub-Division to be nominated by the Sub-Divisional Magistrate;

(*d*) not more than three persons to represent the official or non-official agencies in the Sub-Division connected with rural development to be nominated by the District Magistrate;

(*e*) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(*f*) one officer specified under section 10 and functioning in the Sub-Division.

(4) Each Vigilance Committee shall regulate its own procedure and secretarial assistance, as may be necessary, shall be provided by—

(*a*) the District Magistrate, in the case of a Vigilance Committee constituted for the district;

(*b*) the Sub-Divisional Magistrate, in the case of a Vigilance Committee constituted for the Sub-Division.

(5) No proceeding of a Vigilance Committee shall be invalid merely by reason of any defect in the constitution, or in the proceedings, of the Vigilance Committee.

14. *Functions of Vigilance Committees.*—(1) The functions of each Vigilance Committee shall be,—

(*a*) to advise the District Magistrate or any officer authorised by him as to the efforts made, and action taken to ensure that the provisions of this Ordinance or of any rule made thereunder are properly implemented;

(*b*) to provide for the economic and social rehabilitation of the freed bonded labourers;

(*c*) to co-ordinate the functions of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourer;

(*d*) to keep an eye on the number of offences of which cognizance ought to be taken under this Ordinance;

(*e*) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Ordinance;

(*f*) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

(2) A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

15. *Burden of proof.*—Whenever any debt is claimed by a bonded labourer, or a Vigilance Committee, to be a bonded debt, the burden of proof that such debt is not a bonded debt shall lie on the creditor.

CHAPTER VI

OFFENCES AND PROCEDURE FOR TRIAL

16. *Punishment for enforcement of bonded labour.*—Whoever, after the commencement of this Ordinance, compels any person to render any bonbed labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

17. *Punishment for advancement of bonded debt.*—Whoever advances, after the commencement of this Ordinance, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

18 *Punishment for extracting bonded labour under the bonded labour system*—Whoever enforces, after the commencement of this Ordinance. any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependant of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees ; and out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him.

19 *Punishment for Ommission or failure to restore possession of property to bonded labourer*—Whoever, being required by this Ordinance to restore any property to the possession of any bonded labourer, omits or fails to do so, within a period of thirty days from the commencement of this Ordinance, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both ; and, out of the fine, if recovered, payment shall be made to the

bonded labourer at the rate of rupees five for each day during which possession of the property was not restored to him.

20. Abetment to be an offence :—Whoever abets any offence punishable under this Ordinance shall, whether or not the offence abetted is committed, be punishable with the same punishment as is provided for the offence which has been abetted.

Explanation :—For the purpose of this Ordinance, "abetment" has the meaning assigned to it in the Indian Penal Code (45 of 1860).

21. Offences to be tried by Executive Magistrates :—(1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class or of the second class for the trial of offences under this Ordinance; and on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, (2 of 1974) to be a Judicial Magistrate of the first class, or of the second class, as the case may be.

(2) An offence under this Ordinance may be tried summarily by a Magistrate.

22. Cognizance of Offences :—Every offence under this Ordinance shall be cognizable and bailable.

23. Offences by companies :—(1) Where and offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or

connivance of, or is attributable to any neglect on the part of any director manager secretary or other officer of the company, such director manager secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation —For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals ; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER VII

MISCELLANEOUS

24. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Ordinance.

25. *Jurisdiction of civil courts barred* —No civil court shall have jurisdiction in respect of any matter to which any provision of this Ordinance applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Ordinance.

26. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

(2) In particular, and without prejudice to foregoing power such rules may provide for all or any of the following matters, namely:—

(*a*) the authority to which application for the restoration of possession of property referred to in sub-section (4), or sub-section (5), of section 6 is to be submitted ;

(*b*) the time within which application for restoration of possession of property is to be made to the prescribed authority;

(*c*) steps to be taken by Vigilance Committees to ensure the implementation of the provisions of this Ordinance;

(*d*) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be, after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

FAKHRUDDIN ALI AHMED.
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Shillong.